

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

JAMES K. HEWITT,)	
)	
Petitioner,)	
)	
v.)	CIVIL ACTION NO. 5:14-CV-114 (MTT)
)	
Warden MARTY ALLEN,)	
)	
Respondent.)	
_____)	

ORDER

Before the Court is the Recommendation of United States Magistrate Judge Charles H. Weigle. (Doc. 16). The Magistrate Judge recommends granting the Respondent's motion to dismiss (Doc. 13) because the Petitioner did not file his 28 U.S.C. § 2254 petition within the one-year period of limitations and failed to establish entitlement to equitable tolling. The Magistrate Judge further recommends denying a certificate of appealability.

The Petitioner has not objected to the Recommendation. The Court has reviewed the Recommendation, and the Court accepts and adopts the findings, conclusions, and recommendations of the Magistrate Judge. The Recommendation is **ADOPTED** and made the Order of this Court. Accordingly, the Respondent's motion to dismiss is **GRANTED**, and the petition is **DISMISSED**. Further, the Petitioner has not made a substantial showing of the denial of a constitutional right pursuant to 28 U.S.C. § 2253(c)(2). Therefore, a certificate of appealability is **DENIED**. Additionally, because there are no non-frivolous issues to raise on appeal, an appeal would not be taken in

good faith. See 28 U.S.C. § 1915(a)(3). Accordingly, any motion to proceed *in forma pauperis* on appeal is **DENIED**.

SO ORDERED, this 11th day of February, 2015.

S/ Marc T. Treadwell
MARC T. TREADWELL, JUDGE
UNITED STATES DISTRICT COURT